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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7652 OF 2009

Maharashtra Education Society

..Petitioner.

V/s.

State Information Commission & Anr.

..Respondents.

Mrs. Kalyani Kulkarni Pathak for petitioner.

Mr. Anant M. Sathe, Constituted Attorney for respondent in person.

**CORAM : B.H. MARLAPALLE
AND U.D. SALVI, JJ.**

DATED : 22ND OCTOBER, 2010

P.C. :-

1. We have heard the learned counsel for the petitioners and the C.A. of the respondent.

2. The respondent No.2 has submitted an appeal to the State Information Commission on 19/06/2008. On receiving the notice from the State Commission, the petitioner has submitted its reply opposing the said appeal on 10/11/2008. In the said reply, the petitioner has submitted that it is not a public authority as defined under Section 2(h) of the Right to Information Act, 2005 as it concerns to the Bal Shikshan

Mandir English Medium School, Pune which is not an aided institution. The State Commission, therefore, called upon the petitioner to furnish the information as under:-

- a) Whether Maharashtra Education Society receives government aid;
- b) The ownership of the land on which the Institution is standing; and
- c) The yearly accounts for the last four years.

3. In reply, the petitioner filed the details and stated that some of the institutions are run with the government aid, the ownership of the land on which the institutions are standing could not be ascertained and the annual copies of the accounts were submitted. The State Commission called upon the petitioner to give a list of the institutions which receive government aid and also whether the Government has provided land to any of its Institutions on concessional rates. Admittedly, the said information has not yet been furnished by the petitioner to the State Commission and the State Commission could not proceed further.

4. Thus, as of now, in our opinion, there is no cause of action to file this petition and we also do not find any fault with the State Commission for calling for the information as noted hereinabove. If the petitioner has raised a preliminary issue that it is not a public authority, the State Commission is fully justified in calling upon the petitioner to

furnish the information noted earlier. If the petitioner furnishes the information, undoubtedly, both the parties will have to be heard on the preliminary issue whether the petitioner Society could be called a public authority and consequently, the appeal will have to be decided on other issues in case the Commission records a finding that the petitioner is a public authority. If the finding on the preliminary issue is in favour of the petitioner, the appeal will stand dismissed only on that ground. We, therefore, direct the petitioner to furnish the information as called for by the State Commission within two weeks from today and the State Commission will hear both the parties while deciding the appeal.

5. The petition is disposed off accordingly.

(U.D. SALVI, J.)

(B.H. MARLAPALLE, J.)